



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Microrim, Inc.--Request for Reconsideration

**File:** B-225525.2

**Date:** January 14, 1987

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### **DIGEST**

Prospective subcontractor who protests restrictive specification is not an interested party under GAO's Bid Protest Regulations, since it is not a prospective offeror under the solicitation.

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### **DECISION**

Microrim, Inc., requests reconsideration of the dismissal of its protest under request for proposals (RFP) No. N66032-86-R-0014, issued by the Department of the Navy Automatic Data Processing Selection Office for an indefinite quantity of computer equipment, associated software and local area network components. Microrim's protest was dismissed since it was not an interested party under our Bid Protest Regulations. We deny Microrim's request for reconsideration and affirm our dismissal.

Microrim protested on November 28, 1986, that the RFP's requirement that a particular brand name data base management system (DBMS) software ("dBase III") be provided under the contract, with no provision for equal DBMS software. Microrim, who supplies the "Rbase" DBMS, protests that the Navy has not adequately or properly justified this "sole source" aspect of the procurement. Microrim also protests that the Navy did not promptly provide it with the justification for the brand name software. Microrim finally protests that the Navy is improperly conducting this procurement under the Warner Amendment, 10 U.S.C. § 2315(a) (1982), that generally exempts the procurement from the requirements of the Brooks Act, 40 U.S.C. § 759 (1982), governing automatic data processing acquisitions by the government.

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As indicated above, on December 2, 1986, our Office dismissed Microrim's protest because it was found not to be an "interested party" eligible to protest under our Bid Protest Regulations, inasmuch as Microrim was not an actual or prospective offeror on the RFP. Under the Competition in Contracting Act of 1984 (CICA), this Office only decides protests filed by an "interested party," which CICA defines as an "actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract." 31 U.S.C. § 3551(2) (Supp. III 1985); 4 C.F.R. § 21.0(a) (1986); Environmental Systems Research Institute, B-219797, Oct. 23, 1985, 85-2 C.P.D. ¶ 449; Electronic Systems U.S.A., Inc., B-219754, Sept. 5, 1985, 85-2 C.P.D. ¶ 274.

Microrim states that it is an established firm in the automatic data processing field and an experienced government contractor, and that since its protest of the specification requirements was filed prior to the closing date for receipt of proposals, it cannot be said that it is not a prospective offeror on this RFP. Microrim claims that it fully intended to submit an offer on the procurement but could not because of the RFP's sole-source requirement that was the basis for its protest. Moreover, Microrim claims that it could have received an award under the RFP for just the DBMS, since the RFP did not include an "all or none" requirement.

However, contrary to Microrim's contention, both the RFP and the Commerce Business Daily announcement of this procurement make it clear that only one award for the complete system of end user computer equipment and software would be made, and that no separate award for the DBMS software was contemplated. Furthermore, on page six of its initial protest to this Office, Microrim stated that its interest in this procurement was as a potential subcontractor. Nowhere in its initial protest does Microrim contend that it intended to propose on the entire system being procured under the RFP of which the DBMS is a small part.

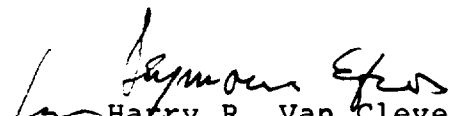
A prospective subcontractor or supplier does not have the requisite interest to be considered an interested party to protest under CICA since they are not prospective or actual offerors. See Environmental System Research Institute, B-219797, supra (software supplier protesting software requirements in a procurement of computers and related software is not an interested party under our Office's Bid

Protest Regulations, since it is not an actual or prospective offeror, but only a supplier to firms capable of competing for the entire project).

The decisions of our Office cited by the protester to support its position that subcontractors and suppliers are interested parties under our Bid Protest Regulations where they have a direct economic interest, Coulter Electronics, Inc., B-216800, Apr. 23, 1985, 85-1 C.P.D. ¶ 463, and Porta-Fab Corp., B-213356, May 7, 1984, 84-1 C.P.D. ¶ 511, concern protests filed under our Bid Protest Procedures that were in effect prior to the effective date of CICA. Since CICA's definition of an interested party plainly requires protesters to be actual or prospective offerors, these pre-CICA cases are inapplicable, inasmuch as our Office is precluded by the terms of CICA from reviewing protests by potential subcontractors. See Julie Research Laboratories, Inc., B-219370, Aug. 16, 1985, 85-2 C.P.D. ¶ 185, aff'd B-219370.2, Sept. 17, 1985, 85-2 C.P.D. ¶ 294.

The decision of the General Services Board of Contract Appeals (GSBCA) cited by the protester, Computervision Corp. (GSBCA No. 8744-P, Nov. 10, 1986), is also inapplicable, even though the definition of interested party in CICA for GSBCA's resolution of automatic data processing bid protests is identical to that applicable to our Office. Compare 31 U.S.C. § 3551(2) to 40 U.S.C. § 759(h)(9)(A) (Supp. III 1985). In that decision, there was no indication that the protester of the solicitation requirements, who was found by the GSBCA to be an interested party, was a mere supplier or subcontractor; rather it appears that the protester in that case was a prospective offeror.

Accordingly, Microrim's request for reconsideration is denied.

  
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General Counsel